

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 784

**Introduced by Committee on Elections, Reapportionment and
Constitutional Amendments (Senators Bowen (Chair), Battin,
Dunn, Murray, Poochigian, and Romero)**

February 22, 2005

An act to amend Section ~~83124~~ 82015 of the Government Code, relating to elections, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 784, as amended, Committee on Elections, Reapportionment and Constitutional Amendments. Campaign contributions—and expenditures.

~~Existing law requires that the Fair Political Practices Commission adjust specified contribution and voluntary expenditure limitations, as specified, to reflect any increase or decrease in the Consumer Price Index.~~

~~This bill would require that the commission also adjust specified reporting thresholds, as specified, to reflect any increase or decrease in the Consumer Price Index.~~

Existing law defines the term “contribution” and includes criteria to be applied in determining whether a payment made at the behest of a candidate is to be excluded from this definition. Payments made “principally for legislative, governmental, or charitable purposes” are among these exclusions, although certain reporting requirements are imposed with respect to these payments.

This bill would extend, for the purposes of this exclusion, the time within which such payments must be reported, from 30 to 90 days, and increase the aggregate threshold amount which must be reported, from \$5,000 to \$7,000.

This bill would also specify that such reporting is not required with respect to payments made in response to press releases, in interviews or public services announcements, as specified, or in communications which identify the elected officer only as part of a listing, as described, and that such reporting is required only if the elected officer knows or has reason to know that a payment was made at his or her behest.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the act, would therefore require a $\frac{2}{3}$ vote.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~ $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 83124 of the Government Code is~~
2 ~~amended to read:~~
3 ~~83124. (a) The commission shall adjust the contribution~~
4 ~~limitations and voluntary expenditure limitations provisions in~~
5 ~~Sections 85301, 85302, 85303, and 85400 in January of every~~
6 ~~odd-numbered year to reflect any increase or decrease in the~~
7 ~~Consumer Price Index. Those adjustments shall be rounded to the~~
8 ~~nearest one hundred dollars (\$100) for limitations on~~
9 ~~contributions and one thousand dollars (\$1,000) for limitations~~
10 ~~on expenditures.~~
11 ~~(b) The commission shall adjust the reporting thresholds in~~
12 ~~Section 82015 in January of every odd-numbered year to reflect~~
13 ~~any increase or decrease in the Consumer Price Index. Those~~
14 ~~adjustments shall be rounded to the nearest one hundred dollars~~
15 ~~(\$100).~~
16 ~~SECTION 1. Section 82015 of the Government Code is~~
17 ~~amended to read:~~
18 ~~82015. (a) "Contribution" means a payment, a forgiveness of~~
19 ~~a loan, a payment of a loan by a third party, or an enforceable~~
20 ~~promise to make a payment except to the extent that full and~~

adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes.

(b) (1) A payment made at the behest of a committee as defined in subdivision (a) of Section 82013 is a contribution to the committee unless full and adequate consideration is received from the committee for making the payment.

(2) A payment made at the behest of a candidate is a contribution to the candidate unless the criteria in either subparagraph (A) or (B) are satisfied:

(A) Full and adequate consideration is received from the candidate.

(B) It is clear from the surrounding circumstances that the payment was made for purposes unrelated to his or her candidacy for elective office. The following types of payments are presumed to be for purposes unrelated to a candidate's candidacy for elective office:

(i) A payment made principally for personal purposes, in which case it may be considered a gift under the provisions of Section 82028. Payments that are otherwise subject to the limits of Section 86203 are presumed to be principally for personal purposes.

(ii) A payment made by a state, local, or federal governmental agency or by a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(iii) A payment not covered by clause (i), made principally for legislative, governmental, or charitable purposes, in which case it is neither a gift nor a contribution. However, payments of this type that are made at the behest of a candidate who is an elected officer shall be reported within ~~30~~ 90 days following the date on which the payment or payments equal or exceed ~~five~~ *seven* thousand dollars ~~(\$5,000)~~ *(\$7,000)* in the aggregate from the same source in the same calendar year in which they are made. The report shall be filed by the elected officer with the elected officer's agency and shall be a public record subject to inspection and copying pursuant to the provisions of subdivision (a) of Section 81008. The report shall contain the following information: name of payor, address of payor, amount of the payment, date or dates the payment or payments were made, the name and address of the payee, a brief description of the goods or

1 services provided or purchased, if any, and a description of the
2 specific purpose or event for which the payment or payments
3 were made. Once the ~~five~~ *seven* thousand dollars ~~(\$5,000)~~
4 *(\$7,000)* aggregate threshold from a single source has been
5 reached for a calendar year, all payments for the calendar year
6 made by that source must be disclosed within ~~30~~ *90* days after
7 the date the threshold was reached or the payment was made,
8 whichever occurs later. Within 30 days after receipt of the report,
9 state agencies shall forward a copy of these reports to the Fair
10 Political Practices Commission, and local agencies shall forward
11 a copy of these reports to the officer with whom elected officers
12 of that agency file their campaign statements.

13 *(iv) Subject to clause (v), an elected officer is not required to*
14 *report a payment pursuant to clause (iii) if the payment is made*
15 *in response to a press release sent to members of the media, in*
16 *an interview with the elected officer or a public service*
17 *announcement that is broadcast or printed by members of the*
18 *media, or in a communication that identifies the elected officer*
19 *only as part of a listing or roster that includes the name of the*
20 *elected officer and other individuals listed appear in the same*
21 *type size, typeface, and type color.*

22 *(v) An elected officer is required to report a payment pursuant*
23 *to clause (iii) only if the elected officer knows, or has reason to*
24 *know, that a payment was made at his or her behest.*

25 (C) For purposes of subparagraph (B), a payment is made for
26 purposes related to a candidate's candidacy for elective office if
27 all or a portion of the payment is used for election-related
28 activities. For purposes of this subparagraph, "election-related
29 activities" shall include, but are not limited to, the following:

30 (i) Communications that contain express advocacy of the
31 nomination or election of the candidate or the defeat of his or her
32 opponent.

33 (ii) Communications that contain reference to the candidate's
34 candidacy for elective office, the candidate's election campaign,
35 or the candidate's or his or her opponent's qualifications for
36 elective office.

37 (iii) Solicitation of contributions to the candidate or to third
38 persons for use in support of the candidate or in opposition to his
39 or her opponent.

1 (iv) Arranging, coordinating, developing, writing, distributing,
2 preparing, or planning of any communication or activity
3 described in clauses (i), (ii), or (iii), ~~above~~.

4 (v) Recruiting or coordinating campaign activities of
5 campaign volunteers on behalf of the candidate.

6 (vi) Preparing campaign budgets.

7 (vii) Preparing campaign finance disclosure statements.

8 (viii) Communications directed to voters or potential voters as
9 part of activities encouraging or assisting persons to vote if the
10 communication contains express advocacy of the nomination or
11 election of the candidate or the defeat of his or her opponent.

12 (D) A contribution made at the behest of a candidate for a
13 different candidate or to a committee not controlled by the
14 behesting candidate is not a contribution to the behesting
15 candidate.

16 (c) The term “contribution” includes the purchase of tickets
17 for events such as dinners, luncheons, rallies, and similar
18 fundraising events; the candidate’s own money or property used
19 on behalf of his or her candidacy other than personal funds of the
20 candidate used to pay either a filing fee for a declaration of
21 candidacy or a candidate statement prepared pursuant to Section
22 13307 of the Elections Code; the granting of discounts or rebates
23 not extended to the public generally or the granting of discounts
24 or rebates by television and radio stations and newspapers not
25 extended on an equal basis to all candidates for the same office;
26 the payment of compensation by any person for the personal
27 services or expenses of any other person if the services are
28 rendered or expenses incurred on behalf of a candidate or
29 committee without payment of full and adequate consideration.

30 (d) The term “contribution” further includes any transfer of
31 anything of value received by a committee from another
32 committee, unless full and adequate consideration is received.

33 (e) The term “contribution” does not include amounts received
34 pursuant to an enforceable promise to the extent those amounts
35 have been previously reported as a contribution. However, the
36 fact that those amounts have been received shall be indicated in
37 the appropriate campaign statement.

38 (f) The term “contribution” does not include a payment made
39 by an occupant of a home or office for costs related to any
40 meeting or fundraising event held in the occupant’s home or

1 office if the costs for the meeting or fundraising event are five
2 hundred dollars (\$500) or less.

3 (g) Notwithstanding the foregoing definition of “contribution,”
4 the term does not include volunteer personal services or
5 payments made by any individual for his or her own travel
6 expenses if the payments are made voluntarily without any
7 understanding or agreement that they shall be, directly or
8 indirectly, repaid to him or her.

9 SEC. 2. The Legislature finds and declares that the
10 provisions of this act further the purposes of the Political Reform
11 Act of 1974 within the meaning of subdivision (a) of Section
12 81012 of the Government Code.

13 SEC. 3. *This act is an urgency statute necessary for the*
14 *immediate preservation of the public peace, health, or safety*
15 *within the meaning of Article IV of the Constitution and shall go*
16 *into immediate effect. The facts constituting the necessity are:*

17 *To amend existing law regarding contributions to political*
18 *candidates and the filing of campaign statements, it is necessary*
19 *that this act take effect immediately.*